IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.3175/2007
Smt. Sondai & Ors. Vs. MACT & Ors.

Date of Order : 17th May 2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Hemendra Goyal for the petitioners.
Shri Virendra Agarwal for respondent no.4.

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The contesting respondent in this case is respondent no.4 i.e. insurance company, therefore, service of notice on remaining respondents is dispensed with.

Heard the learned counsel for the petitioners.

The petitioners have challenged the order dated 16/10/2006 (Ann.1) passed by the Motor Accident Claims Tribunal, Deeg whereby the said Tribunal awarded Rs.50,000/- as interim-compensation to the petitioners-claimants under Section 140 of the Motor Vehicles Act, 1988. On

an application filed on behalf of the petitioners-claimants for disbursement of the compensation amount, the Tribunal vide order dated 14/3/2007 (Ann.2) issued directions for disbursement of an amount of Rs.8,000/- only out of total amount of interim-compensation of Rs.50,000/-. Rest amount of Rs.42,000/- was directed to be kept under the fixed deposit.

Learned counsel for the petitioners-complainants argued that the interim-compensation awarded under Section 140 of the Act of 1988 is in the nature of immediate relief and, therefore, the amount so awarded cannot be directed to be invested like the compensation granted at the time of ultimate award.

Learned counsel for the petitioners has placed reliance on the judgments of this Court in Smt.Preeto Bai Vs. Motor Accident Claims Tribunal, Deeg, District Bharatpur : 2007(1) W.L.C. 788 and Harimohan & Ors. Vs. Oriental Insurance Co.Ltd. : 1995(2) W.L.C. 339.

A perusal of the aforesaid judgments reveals that this Court has taken a view that in view of the necessity of claimants, interim-compensation should be released in favour of the claimants forthwith. Further, payment of amount of interim-award ought to be made to the claimants immediately otherwise the very purpose and object of the provisions contained in Section 140 of the Act of 1988 would be frustrated.

I am in agreement with the observations given by this Court in the aforesaid two cases because such compensation is awarded without determining the liability of the either party and, therefore, it is called as 'no fault liability compensation'. If the amount of interim-compensation is not immediately disbursed to the claimants, the very object of the legislature for providing this relief as a interim measure pending determination of total compensation and passing of final award, would be defeated. Scheme of investment by way of

fixed deposit as has been so ordered by the learned Tribunal could not be applied to the cases of interim-award.

In the circumstances, the order passed by the learned Tribunal on 16.10.2006 may be given effect to but the subsequent order dated 14.3.2007 whereby amount of Rs.42,000/- was ordered to be invested as per the condition in the said order, is held to be not sustainble in law.

In the result, the writ petition is allowed and aforesaid condition in the impugned-order dated 16/10/2006 is set-aside.

(MOHAMMAD RAFIQ), J.

RS/-